

IN THE UNITED STATES DISTRICT COURT  
FOR THE STATE OF NEW MEXICO

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STATE OF NEW MEXICO, *ex rel.*  
State Engineer

Plaintiff,

v.

RAMON ARAGON, *et al.*,

Defendants.

69cv07941 JEC-ACE

RIO CHAMA STREAM SYSTEM  
Rio Gallina, Section 5

Subfile No: CHGA-003-0019

**STATE OF NEW MEXICO'S  
PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW**

COMES NOW the plaintiff State of New Mexico, *ex rel.* State Engineer, by and through his attorneys, and respectfully submits proposed Findings of Fact and Conclusions of Law in connection with the hearing before Special Master Vickie L. Gabin for disputed subfile CHGA-003-0019.

**PROPOSED FINDINGS OF FACT**

1. The Court has jurisdiction over the parties and the subject matter herein.
2. Jose Z. Chacon and Lucinda Chacon are the owners of land in Gallina, New Mexico for which they claim water rights as shown on the color subfile map for Subfile CHGA-003-0019.
3. The disputed areas of claimed irrigated acreage under Subfile CHGA-003-0019 (0.1 and 0.3 acres) were mapped as "no right" or without appurtenant water rights by the Office of the State Engineer; the Office of the State Engineer has recognized valid appurtenant water rights on 1.4 acres of irrigated land as shown on the color subfile map for Subfile CHGA-003-0019.
4. The disputed areas of claimed irrigated acreage were covered in heavy brush (willows

7120

or "jaras") in June of 2001.

5. Aerial photographs taken in 1959, 1961, 1974, 1981, 1989 and 1995, all indicate that the disputed areas of claimed irrigated acreage were covered in trees or brush during those years.

6. Jose Z. Chacon periodically cuts the willows on the disputed areas of claimed irrigated acreage and mixes the willows with grasses and other feed that he gives to his cattle.

7. Willows are not classified as an agricultural crop under the classification system used by the Office of the State Engineer.

8. Land occupied by willows has not been included within the boundaries of irrigated tracts with appurtenant water rights recognized by the State of New Mexico elsewhere in Section 5 of the Rio Chama Stream System.

9. Irrigation of willows does not represent beneficial use of water.

10. Jose Z. Chacon and Lucinda Chacon failed to prove their claim for the appropriation of surface water for agricultural purposes in connection with the disputed areas of claimed irrigated acreage shown on the color subfile map for Subfile CHGA-003-0019.


#### **PROPOSED CONCLUSIONS OF LAW**

1. There are no water rights appurtenant to the disputed areas of claimed irrigated acreage (0.1 and 0.3 acres) as shown on the color subfile map for Subfile CHGA-003-0019, and those tracts should be classified as "no right" or without water rights.

2. The water rights appurtenant to the property owned by Jose Z. Chacon and Lucinda Chacon are limited to the 1.4 acre irrigated tract shown on the color subfile map for Subfile CHGA-003-0019.

DATED: May 2, 2003

Respectfully submitted,

  
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**CERTIFICATE OF SERVICE**

I certify that a copy of New Mexico's Proposed Findings of Fact and Conclusions of Law was mailed to the following persons on May 2, 2003.

  
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